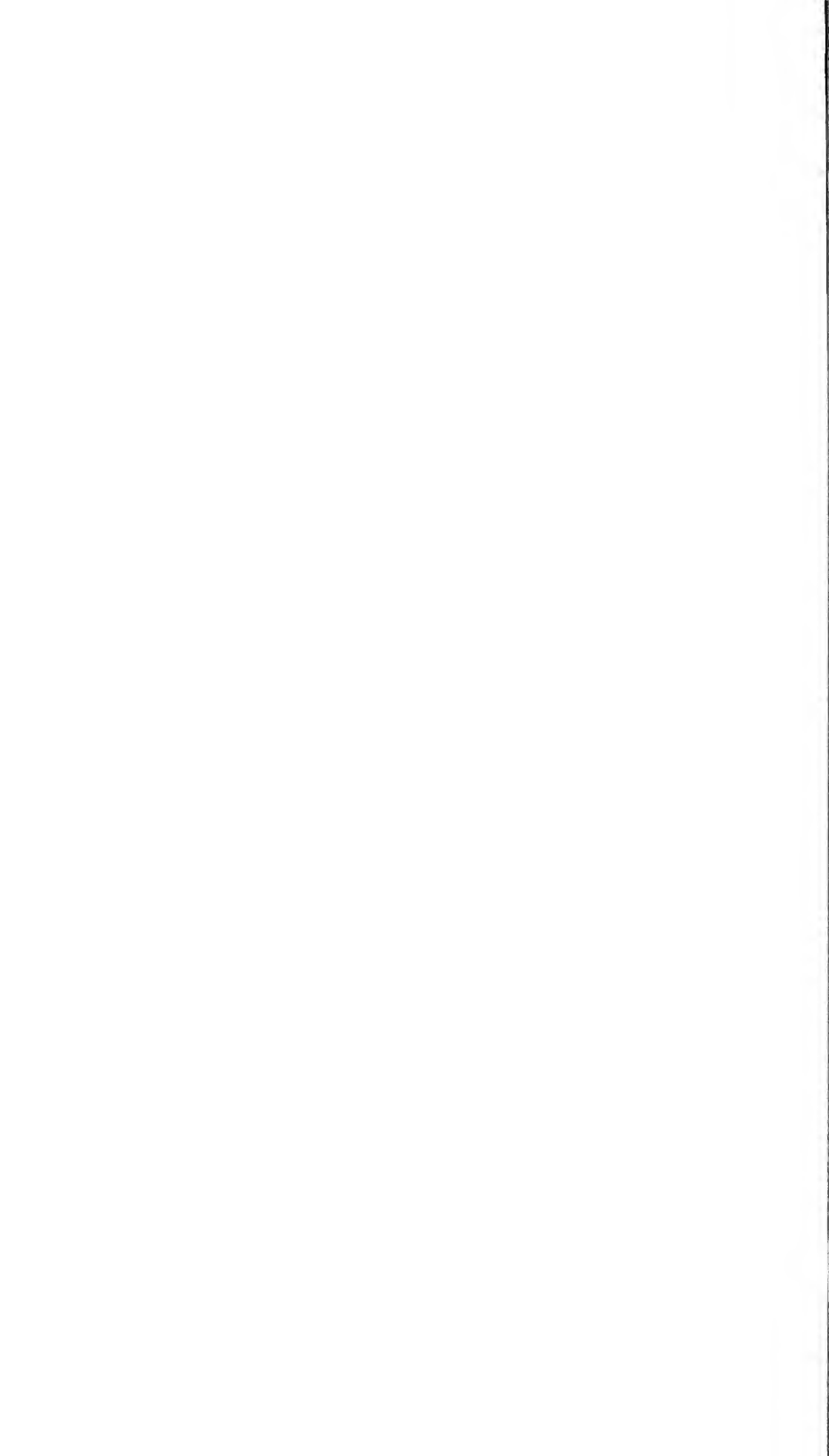


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ADDRESS

OF

JOHN A. MINNIS.

Ku-Klux in Alabama.

CHARGES

OF

HON. RICHARD BUSTEED.

Montgomery, Ala., July 1, 1872.

A D D R E S S

OF

JOHN A. MINNIS.



DELIVERED IN
LONDON.



CHARGE

BY

HON. RICHARD BUSTELL

“



NEW YORK: J. B. LIPPINCOTT & CO., 1875.

A D D R E S S

OF

JOHN A. MINNIS.

Ku-Klux in Alabama.

C H A R G E S

OF

HON. RICHARD BUSTEED.

Montgomery, Ala., July 1, 1872.



TO THE PEOPLE OF ALABAMA.

It is known to most of you, that various persons have been indicted in the United States District Court in the northern and middle districts of Alabama, for violations of the Enforcement Acts of Congress, popularly known as the Ku-Klux laws.

At the last term at Huntsville, six were tried and convicted ; and at the May term here, just adjourned, seven were tried and convicted, and one pleaded guilty.

These laws, and trials under them, have been most bitterly assailed and denounced, and although frequently urged to do so, I had determined not to say anything to the public, but to leave the convictions and developments made on the trials to speak for themselves. But seeing papers North and South continue their course of bitter denunciations, and with such gross misrepresentations, and knowing that the true facts scarcely ever reach the public ear, I have determined, for the vindication of truth, to lay before you as briefly as I can, a few of the facts, and to which I call your serious attention.

The *Montgomery Mail and Advertiser*, of the 27th of June, 1872, under the head of "Men who are in Prison," purports to give a brief history of a man by the name of Moore, from South Carolina, who before the war was a well to do farmer in Alabama, and at the close of the war hired a few of his former slaves and commenced life anew. If this is not entirely a fancy sketch, it must be intended to apply to Sam Moore, originally, as I believe, from South Carolina, at the commencement of the war a farmer in Limestone county, Alabama, and to which place he returned after the war, and at the last term of the Huntsville United States District Court, convicted and sentenced to the Albany Penitentiary for ten years. This is the only man of that name, who had lived in Alabama, that I have any knowledge or ever heard of being convicted ; and in his case the outrage was so great, so revolting to humanity, the proof of his guilt so manifest, that his defense was placed upon purely legal grounds. Counsel in his defense

did not even pretend to argue or intimate that he was not guilty, and such was the desperation of his character, that the whole community, who had turned out to secure his arrest—for the truth is, he was arrested by the citizens—expressed themselves gratified when he was removed to Huntsville, and expressed a sincere hope that he never would be permitted to return to the county, to disturb its peace. He was known to be the leader of a desperate Klan. When he was arrested he threatened many of the citizens, telling them they then had their crowd, he would have his by and by, and would attend to them. I was in Limestone county soon after he was arrested, and was told by leading Democrats, the best citizens of the county, that if he was turned loose, and made his appearance on the streets in Athens, the county seat, there were a dozen men who would feel bound to shoot him down in self-defence.

I have no desire to do any injury to Moore or any living man. I am sorry to feel compelled to say a word upon his case, but in my judgment, the vindication of truth requires this much, and I appeal to every honorable man of any party in Limestone county, where he lived, and every one that heard his trial, for the truth of all that I have said, and much more that might be said. Whilst I have as much sympathy as any man for the unfortunate (if you will have it so) men convicted and sent to prison; still I cannot lose all sympathy for the dying shrieks and groans of the victims of these hellish Klans; prayers and agonies of their victims under the lash, for the smoke from the burning ruins of their generally humble homes, the grief, suffering, wants and misery of their widows and orphans; these often innocent and helpless victims, surely are entitled to some sympathy; they have not had the privilege awarded to their persecutors of a fair and impartial public trial by a jury of their own selection, with counsel and witnesses in their defence. The cases of these poor victims have been determined by midnight self-constituted conclaves, and their orders mercilessly, in the midhours of night promptly by men in disguise, put into execution with more than fiendish ferocity. And in several instances when good men had notice of some of the outrages that were about to be committed, and had the courage to go to these Klans, and plead, or attempt to do so, with them to let the law take its course, they were answered by these monsters in human shape in disguise, *in gutteral tones*: "We are the law! We are the law! We are the law!"

The same paper, in the same issue, under the head of

"The Grant Platform," charges that National Statutes in force, are odious, to break the spirit of our people and make them slaves to federal power ; that peaceable citizens are snatched away from their business and homes, and taken to other States in violation of private right and Constitution of the land ; that the spy, the bayonet, the suborned witnesses, bribed jury and partisan judge have full sway over the lives, property and rights of five millions of people ; that the whole legislation of Congress, in regard to the South, has been one grand and infamous purpose to subordinate the white man to the negro ; that reconstruction, the Fourteenth Amendment, Ku Klux Act, all discriminated by reason of race and political creed ; that Ku-Klux pretended evils, are Ku-Klux goblins, to correct which the Government has resorted to unconstitutional law, and interfered with rights not surrendered by the people to either State or National Government.

As to the charge of partisan judge, this in Alabama can only be intended to apply to Judge Busted. It is well known to you all, that Judge Busted has persistently, up to a late period, denied the existence in Alabama of such an organized Klan as Ku-Klux, and that he has constantly been quoted as the highest authority against such an organization ; that before the Congressional Committee he gave testimony, honestly no doubt, against its existence in Alabama. I know that even after many indictments had been found for outrages, banding and conspiring, etc., in North Alabama, he still did not think it was by organized bands, and that he so wrote to the Department of Justice. I know that he stuck to, and avowed this opinion, until the proof was so overwhelmingly convincing that, much against his prepossessions, he was forced to change his opinion ; put when fully convinced, like a pure patriot, an honest man and an upright judge, he did not fail in his duty to faithfully administer the law for the suppression of this most diabolical evil. As long as Judge Busted could be made to believe and express that belief, that there was no such organization, with these pretended defenders of our people, he was a great and good man, and a pure and an upright judge ; but as soon as the proof showed him his error, and he had the firmness and honesty to announce the truth, he at once, in their opinion, becomes the partizan judge.

As to perjured witnesses, it is a suggestive fact that in all there trials and convictions, not one single colored witness has been charged with swearing falsely ; the whole charge is made as to witnesses who a few months

ago were the companions and associates, and fully endorsed and accredited by those men who now charge them with perjury.

As to bribed juries, I make this challenge: That whilst I do not charge that any jurymen in Alabama has ever been, or offered to be bribed, still that if such is the fact, I challenge investigation, and will show the only bribe ever offered to, or accepted by jurors or witnesses, was in favor of defendants and not the Government.

And now to show you how Judge Busted was forced to change his opinion of this matter, and to show you the existence and diabolical purposes of the organization, I call your attention to the following charges of Judge Busted to the jury in the case of the United States vs. R. G. Young, J. D. Young, Rindgold Young and Neal Harkins, and also in the case of the United States vs. R. S. Gray, George Howard and James Blanks:

GENTLEMEN OF THE JURY :

The prisoners at the bar are charged with violating two of the public laws. They are accused, under the sixth section of the act of Congress, approved May 31, 1870, and the second section of the act approved April 20, 1871. The sixth sections are in these words: "If two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten or intimidate any citizen, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege granted or secured to him by the constitution or laws of the United States, or because of his having exercised the same, such person shall be held guilty of a felony;" and the second section of the act of 1871 provides that, if "two or more persons within any State or Territory of the United States shall conspire together, or go in disguise upon the public highway, or upon the premises of another, for the purpose, either directly or indirectly, of depriving such person of the equal protection of the laws, each and every person so offending shall be deemed guilty of a high crime.

The offense described by the statutes is what is known as a conspiracy, which is defined as the "*corrupt agreeing together* of two or more persons to do, by concerted action, something unlawful, either as a means or an end."

The United States, in this case, have proved the existence of an organization commonly known as the Ku-Klux Klan, and have proved the ends this organization proposes,

and the means by which they were to be accomplished. The witnesses, Nelson, Williams, Barnes, McGlaughn, Sturdivant, Harrell, Cabiness, Webb, Williams and Green Sturdivant, were severally members of the klan or the victims of its atrocity. Nelson, Williams, McGlaughn and Russian Sturdivant were themselves initiated into its bloody mysteries. Harrell, now of Georgia, a lawyer and the editor and proprietor of a Democratic newspaper, testifies to the existence of the klan, in Alabama, at the time and place fixed by the witnesses who are proved to have belonged to it. This witness, with a becoming sense of what is due to the opinions of mankind, avails himself of his right not to answer whether, before 1870, he was a member of the order, but testified that he had no connection with it since that year. It is evident that, aroused by conscience and civilized notions, he has availed himself of the *locus penitentie*. The witnesses, Barnes, Cabiness, Webb Williams, and Green Sturdivant, were severely tortured and whipped, and oppressed, by this hell conceived combination.

I have no difficulty in declaring it to be the law of the land that the organization of a Ku Klux Klan is the consummation of just such a conspiracy and banding together as it was intened by those statutes to punish, and that whoever enrols himself on its list of membership, and takes its obligation, is a conspirator within the intent and meaning of those laws.

What is the *object* of the Ku Klux Klan? Hear it stated from the lips of those who, in an evil hour, allowed themselves to become members of it. Doctor Nelson declares its object was "to control governmental affairs in the United States; to protect each other, and, if any member of the order was arrested for doing anything as a Ku-Klux, we were to release him, if in doing so we had to burn every prison in the State." To all this the witness tells us, the members of the klan were oath bound, and the penalty for divulging any of its secrets was death.

The witness, Williams, tells us that the klan had no stated place for convening—that its members met in out of the way fields and graveyards, in disguises, and at night.

Mr. Barnes has put before you the notice which was affixed to the gate of his premises by this band of murderous out-laws, in the month of January, 1871. It consists of the outlines of a coffin, with his name in the centre, and a notice that ten days would be allowed him to leave the country. It is signed with the cabalistic letters. He has

also put before you the notice which, in February, 1871, the Ku-Klux placed on the church door, near to the school house which these marauders subsequently burned down. This precious document is in words and figures as follows:

"I Jake an embaster from the tombs do come forewarn-
ing the people of Pearson Chappel naborhood from infer-
ring any one him her or from undertaking a school without
the consent of every man and women in the naborhood,
that wishes to send to school—if suffered the house will
share the fate of New Elam for our purpose is to have
quiettude peace and harmony throughout the land, which
is the life of all nations." "K. K. K."

Mr. Barnes has also put before you the notice taken from the ruins of the school house, after it was burned by these wretched enemies of learning and religion. This last notice was put up by the Ku Klux as lately as the month of April, of last year. It is in words and figures as follows:

"We are here for pease and expect to have pease in our country if we cant have it one way we con a nother We truly hope that the members of Pearson's chapel will brake up the school at the meeting house if not it will bare the Fate that New Elam Did And I further more say if Dock Barnes dont hold his peace Hell will be his portion We dont want to burn the house but if the school is not stop-
ped it will burn down immediately this is written by the Commander of the Cross Roads and Recorded by the Devils clerk." "K. K. K."

Mr. Barnes, you must recollect, never belonged to the Ku-Klux. He was its deadly enemy. No complicity with its foul deeds weakens or stains his testimony. The defense contesses his credibility. No witness, as in the case of McGlaughlin, is called to prove that Barnes ought not to be believed. He stands before you admitted to be worthy to be received as a truthful witness, and his testimony is corroboration of the strongest kind of the witnesses, McGlaughlin, Russian Sturdivant and Nelson, three of the class designated as accomplices.

The witness McGlaughlin testifies what the objects of the Ku-Klux were, and how those objects were to be accomplished. The prisoner, Griffin Young, who is represented to have been recognized by the klan as its chief, suspected Mr. Cabiness, the foreman of his tannery, of having taken from the yard several skins. Straightway the klan is assembled, under the leadership of the Prisoner, John D. Young, its disguise put on, is marched to the residence of the prisoner, Griffin Young, where and with whom John D. Young has a conference, and immediately Cabiness is

visited by the klan in disguise, informed that he was suspected of having taken the skins from Griffin Young, and his premises searched. Not finding what they were after, the klan informed Mr. Cabiness that he must replace the skins, and that if he would pay the prisoner, Griffin Young, for the missing leather, there would be no more done to him thereafter. Cabiness denied to the teeth of the maskers that he had any of the property of the prisoner, Griffin Young, and charged upon them that their visit to him was to gratify Griffin Young's spite, because he (Cabiness) had set up an opposition tannery. The klan answered him by the question: "How would you like to see your length measured on the ground?" accompanying it with a threat that the matter between him and Griffin would "have to be straightened up in six days," or they would "come back, and there would be worse times than ever."

Now, gentlemen of the jury, you must bear in mind that Mr. Cabiness is not an accomplice, and that he corroborates the testimony of McGlaughn in its essential features. The defense attempted to make a case against McGlaughn, on the ground that his character for truth was bad, and that he was an accomplice. You will give this attack the weight it deserves, but no amount of argument or proof as to McGlaughn can lessen the force of the testimony of Mr. Cabiness, and he proves that the Ku-Klux did in relation to him precisely what McGlaughn had previously sworn.

The witness Russian Sturdivant, joined the Ku-Klux just as he reached the age of twenty years. He tells you that Harkens, the prisoner, was the first person who ever told him of the existence of such an organization, and asked him if he did not want to join it. Harkens told him it was "a good thing to keep peace in the country." Under these really false representations, but which Sturdivant believed to be true, he joined the infamous gang. I do not know how the appearance of this young man, twenty-two years of age, upon the witness stand, impressed you. It appears to the Court that, notwithstanding his brief association with the diabolical Ku-Klux Klan, his better nature is stronger than his vicious lapse. I have no doubt he spoke the truth. This is but my opinion to you, however.

Sturdivant tells us what the object of the Ku-Klux were. In his own phraseology, "the object was to keep organized, to protect the Democratic party, and to keep niggers down." On his direct examination he gave us illustrations of the signs of recognition used by the Ku-

Klux, and told the pass words and distress cry, and on his cross examination by the defense, and upon their demand, recited the oath which is administered to persons when they are initiated. He tells you the oath is this:

"You do solemnly swear, before Almighty God and the witnesses present, that you will never divulge any secret of this order you are about to become a member of, and that you will faithfully discharge your duty as a member, so help you God; and that you will protect the Democratic party, and if any of the order shall be arrested and put in jail, you will release him by night or day, as the circumstances may be."

Sturdivant testified that the penalty for divulging the secrets of the order was death. He tells you that he has seen the prisoner, Harkins, at meetings of the klan, and was with him on a raid to whip a negro near "Mr. Adams' mill," and in the raid against Randolph Pearson; that he and the prisoners, John D. Young and Ringgold Young, were engaged in the burning of the African church, and that Ringgold Young, with himself and others, were in the raid at Walker's, in December, 1870, or January 1871, when a negro who was about to be whipped ran away, and was shot as he attempted to escape.

It is proper that you should recollect that no attempt has been made to impeach the testimony of Sturdivant by proof direct against his character for truth and veracity. The defense calls no witnesses for this purpose.

The witness, Curtis Williams, testifies that he has seen the prisoner, Ringgold Young, in the disguise of a Ku-Klux; that so disguised he accompanied him to the Thomas' to whip a negro; that after this whipping they went to Christian's place and whipped a negro woman and her boy. He testifies that the Prisoner Griffin Young, invited him to be one of a party to put E. W. Barns out of the way, who Griffin Young said would ruin the Ku-Klux Klan if he was not put out of the way. This witness testifies that Griffin Young was spoken of in the klan as the cyclops.

He also testifies to the persuasions of Griffin Young on the subject of his being called as a witness before the grand jury, during which he tried to impress him with the idea that he was not compelled, on being sworn before that body, to tell what he knew about the Ku-Klux.

It is true that Williams is an accomplice. He comes before you as do the other accomplices, under that cloud, but the defense do not attack his general character for truth

and veracity, and his testimony is corroborated in many essential respects by E. W. Barnes.

The witness, Webb, a black man, corroborates the testimony of the witnesses who were the accomplices of the prisoners. He proves the visit to the house on the last night of the year 1870, of eighteen men in disguises of the Ku-Klux; their measuring him for his coffin; their beating him; their threats that they would whip all Radicals, black and white; their injunction against his voting at elections; their expression of their purpose to burn the Elam African church that night, and the burning of it in a quarter of an hour after they left his house.

The witness, Wiley Williams, also corroborates material testimony given by the accomplices. He proves the burning of the church on the last night of the year 1870, and that he was visited by the Ku Klux in disguise that same night, severely whipped, brutally kicked, and measured for his coffin, after being first being interrogated as to how he voted, and cursed for voting the Republican ticket.

Green Sturdivant testifies in corroboration of material facts sworn to by the witnesses who were accomplices. He proves the burning of the church by men in the disguises of the Ku-Klux, and their visit to his own house; their whipping him severely and measuring him for his coffin. Mr. Maxwell also proves the fact of the church burning on the 31st of December, 1870.

This is the case as it is presented to you by the United States. The crime charged, in plain language, is that the prisoners were Ku-Klux. How do the prisoners answer it?

The prisoner, Ringgold Young, sets up an alibi as to the single act of burning the Elam church. You will recollect the testimony of the black man, Thomas, on this point. I pass it in pity and without further comment. If true, its only tendency or effect would be to relieve Ringgold Young of participation in the burning of Elam church. It makes no attempt at denying that he was a member of the Ku-Klux, or that he went on the raids testified to by Curtis Williams, or those testified to by McGlaughn and Sturdivant.

The general defense is, that the prisoners bore a good character, and that the witness, McGlaughn, bore a bad character for truth, and that he and the witnesses, Curtis Williams and Russian Sturdivant, being accomplices of the prisoners are not to be believed.

And first as to the good character of the accused. The law presumes that a man of good character will not commit

crime. This is the substance of it. But when reliable evidence is adduced that such a man has committed it, the presumption arising out of good character is overcome, and previous good character is of no avail. Before the Rev. Dr. Dodd committed the forgery for which he was hanged in England, his character was irreproachable. Before professor Webster murdered Dr. Parkman in Boston, he stood as well as any man in New England. He killed Parkman, and was hanged for doing so. Satan himself was an archangel *before* he became the devil.

The defendant, Harkins, called four witnesses as to his character. Three of these did not know what his character was, and the other, Mr. Jarvis, testified of it in this language: "I think I know his general character; I think it is good."

The other defendants, Reuben G. Young, John D. Young and Ringgold Young, from out of all their neighbors and acquaintances, call three persons to prove their general character. Mr. Thomas testifies that "the general character of Reuben G. Young and Ringgold Young is good, as far as I know," and *thinks* John D. Young's general character is good. Mr. John Morgan testifies that Reuben G. Young's general character "is very fair—very quiet and peaceable." He knows nothing about the general character of Ringgold or John D. Young. Mr. Charles B. Welsh is not examined as to the general character of Ringgold Young or John D. Young. He testifies that the general character of Reuben Griffin Young was formerly good, but that it was now bad, and has been bad since last year.

Gentlemen of the jury, I would be false to the duty I owe this case, if I did not instruct you that, as a matter of law, the defense of previous good character has not been proven.

At this juncture, and before considering the question of the testimony of an accomplice, I wish to instruct you that it is a maxim of the law that in a case where the proofs are not absolutely convincing to the mind of a juror, so as to enable him at once to find a verdict, free from misgivings as to its correctness, the accused shall have the benefit of any reasonable doubt that is engendered by the evidence itself. "Reasonable certainty of the prisoner's guilt is that degree of certainty upon which the jurors would act in their own grave and important concerns."

The case so soon to be given to you, gentlemen of the jury, is one of great and growing interest. Upon its truthful disposition depends very much of the well-being of the people of these communities. If life and liberty are to

be doled out to us by bands of disguised vagabond conspirators or altogether denied us at their will, the laws are a mockery and society a cheat. The scenes of woe and ruin that will assuredly come to us all if the laws are successfully defied, are too terrible to picture.

The statutes under which these prisoners are now being tried were intended to embrace every species of wrong or injury committed through the medium of criminal combinations, and the evidence submitted to you in this case proves that there was a necessity that Congress should enact these statutes, and that they were not enacted a moment too soon. I am shocked and surprised at the developments which have been made. I had no manner of belief in the existence of an organized Ku-Klux Klan in Alabama since 1869. I so testified before the joint committee of Congress when examined before that body in Washington in 1871. I believed and hoped that the dark and cruel monster was dead and buried out of sight and resurrection. Now to refuse to recognize the fact of its existence and operations as lately as October, 1871, in the counties of Cossa and Tallapoosa, of this State, would be simply to be pitifully and wilfully blind to a proven fact. It is with this fact you are called upon to deal. In dealing with it if your moral courage be not equal to the demands made by the law upon your conscience, woe unto you, for woe must be to the land that is plagued by the infidelity or cowardice of sworn jurors.

The prisoners at the bar are upon their trial charged with being members of a corrupt combination which had for its objects the depriving of citizens of rights guaranteed and secured by the constitution and laws—a combination which stole the robes of justice and converted them into the garments of hideous disguise—a combination which spared neither age nor sex—a combination which had no fixed place for the convocation of its members, but which sallied forth under the cover of the night and in forms of terror, from barren fields and full church yards, to burn and lay waste the edifices of religion and learning, to kill those who worshipped or were taught therein; to consign to premature graves, men, women and children in robust health; a combination which, from the embers of crime lighted the fires of sacrifice, and placed upon the desecrated altars of religion the burnt-offerings of sin.

Any people who will not, when they may, consign to just punishment those outlaws, deserves to suffer all the horrors their existence produces, and by the poetry of justice the

juror who sympathizes with them or their crimes, ought to be their very next victim.

There is but one question in the case, gentlemen of the jury, which remains for your consideration, and that is, do you believe the witnesses produced before you by the government? If you do, this is a legitimate and legal end of it, and authorizes you, if you are so minded, to render a verdict of guilty without leaving your seats.

Ought you to believe them? Of course, as to all the witnesses who were not accomplices with the prisoners at the bar in the combination known as the Ku-Klux, you will reject, or receive their testimony upon the same principles which obtain in respect of proof in any case: as to these, there is no occasion that I should lay down any particular rule. As to the witnesses who confess themselves accomplices, and whose testimony was naturally the subject of severe animadversion by the counsel for the defense, I observe to you that ever since the establishment of legal tribunals it has been found necessary and expedient for the ascertainment of the truth and the detection and punishment of great criminals, to resort to the testimony of accomplices. The prime quality of an expert in crime is the talent for concealment. All the plans of wickedness have reference to creating difficulties in the way of its detection, and this is true whether the violations of law be the act of a single individual or of several individuals in concert. In the pursuit of crime we can only employ human agencies, and these, be it remembered, are the same agencies which are employed by the transgressor to commit it, so that its concealment and detection is but a strife between intellectual force.

The law receives the confession of a man against himself as the very highest evidence, and the evidence of a man against his accomplices, with certain precautionary attendants, as proof upon which it is entirely safe for courts of justice to rely.

It has been the practice to instruct juries to receive the testimony of accomplices with great circumspection, and it has also been usual for judges to advise that before full credence is given to it, the jury require some corroboration of the material parts of the accomplice's testimony. This corroboration is very often found in the existence of independent facts connected with the testimony of the accomplice, but provable by other testimony. The case at the bar furnishes a notable illustration of this doctrine. The accomplices, by their direct testimony, prove the unlawful confederating of the prisoners, for the unlawful purposes

of the Ku-Klux Klan; and unimpeached witnesses prove the commission by the accused of several of the overt acts of the combination, among them the whipping of the negroes, and the burning of the church and the school house; so that if the law now were that the evidence of accomplices could not be received by the jury unless accompanied by corroborative proof, the case before us would be clearly within the rule. This is not the law, however. The testimony of all witnesses who are permitted to be examined is given in charge to the jury, who may, and must upon their own conscientious and intellectual appreciation of it, give it such consideration as they think it ought to have. They may thus, if the circumstances warrant it, disbelieve entirely the testimony of a person who was never so much as charged with crime, and as against him place entire confidence in a witness who, up to the hour of his testifying, has been continually associated with guilt. In other words, the whole matter of how much or how little a witness shall be believed, is within the exclusive control of the jury empannelled to try the cause. Formerly, a witness who had an interest in the result of a suit was regarded as incompetent. Now, such a witness is admitted to testify, and the jury determines how much, if any, he is influenced to swerve from that fact. Formerly, it would have been considered monstrous to allow a party to the controversy to testify in his own behalf. Now, the parties may be witnesses for themselves and the jury determines how much credit they are entitled to. As was remarked in the case of *The People vs. Whipple*, 9 Cowan, 707, the admission of accomplices as witnesses "tends to prevent any extensive agreement among atrocious criminals."

It has been held in South Carolina and in Maine, that "the evidence of an accomplice is altogether for the jury, and they, if they please, may act upon it without any confirmation of his statements;" and in New York the well settled doctrine is, that "the testimony of an accomplice, if the jury are satisfied of its truth, will warrant the conviction of the accused, though it be uncorroborated by any other testimony." This accords with the reason and the philosophy of the law.

In the case before us, if the testimony of the witnesses who have themselves been members of the Ku-Klux Klan were not corroborated by the other witnesses, and the independent facts I have before alluded to, you might yet find the prisoners guilty upon the unsupported evidence of the accomplices, and it would be your clear duty to do

this if the testimony given by them satisfied you of its truthfulness. Upon this subject as upon all others within your province, you reason and conclude according to your intelligence and your conscience.

Gentlemen of the jury, the Court now confides this case to you for a verdict. Take it into your keeping. The majesty of the law, and the safety of the citizens are in your charge. Beware how you trifle with either; for as you hold the scales of justice between these, favoring neither, but honest to both, so you will be esteemed in this life and in the great future to which it is the prelude. God help you, gentlemen of the jury, to be faithful and fearless.

GENTLEMEN OF THE JURY :

The prisoners at the bar are charged by an indictment of a grand jury, with having violated two of the acts of Congress, one approved May 31, 1870, and the other approved April 20, 1871. The sixth section of the act of 1870, is in these words: "If two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provisions of this act or to injure, oppress, threaten or intimidate any citizen, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege granted or secured to him by the constitution of the United States, or because of his having exercised the same; such person shall be held guilty of a felony;" and the second section of the act of 1871, provides that, if "two or more persons within any State or Territory of the United States, shall conspire together, or go in disguise upon the public highway, or upon the premises of another, for the purpose, either directly or indirectly, of depriving such person of the equal protection of the laws, each and every person so offending shall be deemed guilty of a high crime."

The offense described by the statutes is what is known as a conspiracy, which is defined as "*the corrupt agreeing together of two or more persons to do, by concerted action, something unlawful, either as a means or as an end.*"

When such a conspiracy is proven to exist, and when it further appears that the accused was a member of it, the law holds him responsible for whatever is done by his co-conspirators in furtherance of the objects of the corrupt combination, though he himself did not advise the particular act, or participate in it, and although he was com-

pletely ignorant of the intention to commit it, and of the facts of its commission.

In the case before you, as in a case of a similar character just tried in this Court, the United States have proven the existence and active operations of a band of lawless men associated for criminal purposes in a combination known as the Ku-Klux Klan. It is evident that as lately as April or May, in the year 1871, this conspiracy existed in an organized form in the county of Randolph, in the State of Alabama. Its objects, as declared by those who are shown to have belonged to it by the testimony of unimpeached and uncontradicted witnesses, were "to stop Radical whites and negroes from voting, or holding office in the country." "To keep the niggers down and prevent their voting," and to keep Radicals from voting." This is what they were organized to do, and this is as corrupt a combination as was ever formed in defiance of the law and in derogation of rights and privileges both granted and secured to the people of these States by the constitution, and the laws passed in pursuance of it.

The XIVth amendment to the constitution of the United States declares that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The XVth amendment to the constitution of the United States, declares that "the rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation."

It will be perceived, gentlemen of the jury, that the XIVth amendment to the organic law, is a declaration by the people of the United States, of what constitute citizenship among them. All persons, white and black alike, born on the soil, and subjects of the law and the government, are, *ipso facto*, citizens. Every person, white and black alike, wherever born, in Africa or in Ireland, in Asia or in Germany, naturalized in the United States, and a subject of their laws and government, is, *ipso facto*, a citizen.

It will next be perceived that the first article of the 15th amendment to the supreme law of the land, vests in every citizen of the United States, white or black, native or naturalized, the same right to exercise the elective franchise that any citizen has, and Congress, following out this

constitutional investment, passed the "act to enforce the right of citizens of the United States to vote in the several States of this Union and for other purposes."

The constitution and the laws declare, as you see, that the negro in these communities, shall not be denied the right to vote by reason of his being a black man, or by reason of his having been a slave, and makes it a crime to attempt to abridge this right. If this crime be attempted by a combination of two or more persons, the laws declare it shall be inquired of by, and punished in the courts of the nation, and not by or in the courts of the State.

Opposed to the constitution of their country, opposed to the laws of their own land, opposed to the universal sense of civilization and christianity, opposed to decency and humanity, comes the Ku-Klux, and banding together, and taking oaths of confederation, deliberately, maliciously, and with purpose predetermined as to means, declare their contempt for the constitution and laws, and avow their intention to prevent radical white citizens and radical black citizens from exercising the right of suffrage.

Does it require a course of reasoning to prove that such a combination is corrupt and unlawful? or that it should be extirpated, root and branch, by the strong hand of government? What is that citizenship worth to the subject which is not protected as well as bestowed? No, gentlemen of the jury, there is no room for doubt here, and, as I said in another case tried at this term of the court, I have no difficulty in declaring it to be the law of the land that the organization of a Ku-Klux Klan is the consummation of just such a conspiracy and banding together, as it was the intention of those statutes to punish, and that whoever enrolls himself on its list of membership, and takes its obligation, is a conspirator within the intent and meaning of the laws of the land.

It follows that if the proof satisfies you that the prisoners on trial, were members of this vile combination, they are guilty as charged, and your duty is to find them so.

The United States called Stephen P. Hood, who testified that the prisoner, Gray, admitted to him that he was a Ku-Klux and urged Hood to join the combination. Gray states when and where this conversation occurred. It was on the 17th of April, 1871.

The prisoner, Howard, told the witness, Hood, that he was in the raid on Mrs. McDowell, and in the raid upon the freedman who lived on the Sewell place, from whose house the Ku-Klux stole whiskey and powder. Howard

told Hood that they went in disguise, and that he was deputed to demand a pistol which it was supposed Mrs. McDowell had in her house; and Mrs. McDowell testifies that the prisoner, Howard, did come in disguise, with a band of Ku-Klux in disguise, and did demand the pistol from her, and that on their leaving her premises, as they ran off, they pelted the house with rocks. This evidence agrees exactly with the evidence given by Hood, and confirms it in all its material respects. Neither Hood nor Mrs. McDowell is an accomplice. Neither of them were ever a member of the accursed fraternity. Both of them stand before you uncontradicted and unimpeached. No witness is called who shakes their credibility in the least, and Spencer Thrift, who was himself a member of the Klan, corroborates the testimony of Hood and Mrs. McDowell, and testifies that he and the prisoner, Howard, were in the raid made against the black man who lived on the Sewell place.

As to the prisoner Blanks, Hood testifies that he confessed his connection with the Klan, and that he participated in the raid on Robert Allen and Whitley. Henry Hunter tells you that Blanks belonged to the Ku-Klux and that Blanks was present when Rufus Barrons, the captain of the organization, showed Hunter the list of persons composing it and that Blanks' name was upon the roll. Blanks did not deny this, and under the circumstances his silence must be taken as an admission of the fact.

The witness, Hunter, is not an accomplice. He was not a member of the Klan. There is no attempt upon the part of the accused to show that Hunter is not worthy to be believed by you, and he confirms the testimony of the witness, Hood, who testifies to the confessions made to him by the prisoner, Plant.

The witness, Thrifts, testifies John to you that the prisoners, Howard and Blanks, were both members of the Ku-Klux in 1871. That Howard was with him on the raid against the colored man, Bill Lawson, who lived on Sewell's place, and that the prisoner, Blanks told him he was going to join the Klan, and afterwards told him he had joined it.

Thrifts is a young man, just twenty-two years of age. He was seduced into joining the dark-minded conspirators before he had reached his legal majority. He is called on the stand laboring under this disadvantage, but it by no means follows that he has not told you the plain, unvarnished truth. The case for the United States, however, does not stand or fall accordingly as you shall reject or re-

ceive his testimony. The material facts to which he was examined had already been testified to by Hood, Spencer Thrifts and Mrs. McDowell; and as I before suggested, neither of these is an accomplice.

You have thus before you the confessions of the three prisoners that they were members of the illegal and corrupt combination, and you have superadded to this, and in support of it, the testimony of the witnesses who speak of the actual participation of Blanks and Howard in the unholy business for which the organization was formed.

As to the defense of previous good character, I instruct you that the law presumes a man who has lived a good life, who has been honest and honorable, who is in sound repute with his neighbors and acquaintances, will not readily commit a crime. This presumption, until it is met and overcome by evidence that he has actually transgressed, is a tower of strength to the accused. When it is so met and overcome, good character is of no further avail. Proof then destroys presumption.

It is also a maxim of law that an accused person is entitled to the benefit of all reasonable doubt of his guilt. Even after the proofs in a case have repelled the presumption of a good character with which every defense sets out, there remains to it the benefit of this reasonable doubt. This is the property of the accused, of which nothing but a verdict deprives him. The doubt, to be within the legal rule, must not be the result of speculation and surmise. It must be the legitimate result and outgrowth of the evidence in the case, and such a doubt as an honest and intelligent man would feel in respect of some matter of great personal concern.

The prisoners, Howard and Blanks, do not attempt to offer any affirmative defense. Not a single human being is called upon their behalf. The prisoner, Gray, relies upon the testimony of the brother-in-law and the brother of the notorious Rufus Barrons, as to Gray's previous good character, for defense. You will determine how much this testimony is worth, and whether you will allow it to overcome the case made against him by the United States.

I will detain you no longer, gentlemen. The case does not warrant or justify an extended charge from the Court. All the facts of it are within a narrow compass. If the witnesses for the prosecution have not committed perjury, the case for the government is made out, and the prisoners are proven guilty. I know that you will render a verdict that shall satisfy the demands of justice. Any other will be a misfortune and a reproach.

That the same thing that was shown to exist in these cases and in these localities, did exist in a large portion of the State, I have most plenary proof, and will be able to show if these trials shall continue. And in some counties worse even than shown in these, and that they all were for the same purpose, actuated by the same animus, used the same means, had the same signs, grips and pass-words.

It is also true that, as a general rule, and in most cases, the one-half of which has never been told, the victims were colored men or white Republicans. To the few exceptions, I will, as far as I remember, call your attention, to show the alarming, ruinous effects of these Klans; to all good citizens:

Allen Maxwell, of Coosa county, a Democrat, and as worthy a man and as good a citizen as there is in the State of Alabama, has been forced to take his family from the neighborhood, and now resides at Opelika, although still running his farm, and at one time went to Texas to look out a home. Daniel Crawford, a leading Democrat of Coosa county, when appealed to by me, in presence of General J. H. Clanton, and before any of these prosecutions were commenced, to take some active part to suppress and put a stop to this violence and these outrages, told me he could do nothing, that for undertaking to protect the negroes on his farm, in their rights, he and his negroes were seriously threatened, and it was doubtful if he would be able to keep them upon his farm, and that such were the feelings against him that anything he could say, would make it worse—think of this state of things. B. M. Barnes, a Democrat, and a worthy and honorable man, in Tallapoosa, opposed to the K. K. K., the school house to which he sent was burned, K. K. notices threatening him and ordering him to leave the county, stuck up at his gate, and the investigation shows they were plotting against his life. Daniel Taylor, a Democrat of Tallapoosa, a man of property, of unexceptionable character, because he undertook to run his farm with the labor that he deemed best to his interest, and to protect that labor, was annoyed, threatened and finally had his dwelling, worth four or five thousand dollars burned, and he has been forced to take his family to Opelika. John P. Smith, raised in Montgomery county, a Confederate soldier and a Democrat, having put him up a saw mill on the S. and N. R. R., in Baker county, finding it necessary to employ colored labor, was first threatened, and then on Saturday night, June 8th, 1872, had his premises visited by a crowd of seven disguised men, some of the colored laborers run off and one of his

tenements occupied by a widow and her children burned. Three men charged with this have been bound over to answer at the next term of the United States District Court. Posey McConnell, of Fayette county, has had great trouble with the K. K., intimidating, threatening and running of his colored laborers. He is one of the wealthiest men and best citizens in the county opposed to K. K. He told me himself if things continued, he would have to leave the country. A few other similar cases in different places might be given.

There is one other feature of this monstrous klan to which I call your attention. It is the manner in which young men and boys are drawn into it. A proposition is made to them to go to see a little fun. Unsuspectingly they agree to it, and start off with a crowd not knowing or suspecting any thing wrong, get off to some old field or woods, all halt, some disguise themselves, others, who have no disguise, are directed to put their shirts and drawers over their pants and coats. In this situation a negro is whipped, in a few instances killed. At once the obligation is read, and the penalty of disclosing explained, and whether the young man or boy takes the obligation or not he is enrolled as a member and his mouth shut. Such was the case with several who have since disclosed and have been sworn as witnesses, and for which they have been so bitterly denounced. And in this way your sons have been, and were being, unsuspectingly to you, and without intending it themselves, drawn into this most diabolical conspiracy against the rights and privileges of citizens, and against the peace and good order of society and the government itself.

But perhaps you are ready to say, we are opposed to all this, but it should be put down by the local or State authority. In answer to this, I call your attention to the fact that the very journals and political leaders that have, and are now so bitterly denouncing the National Government, denounced with equal bitterness, all State legislation for the purpose; that they denounced Governor Smith and a Judge of the Supreme Court of the State, for attempting to investigate and put down this organized lawlessness, with as much bitterness as they now denounce the President and Judges of the National Courts, and I ask you to seriously answer your own consciences, if the National Government is deprived of all power to act by its Courts or otherwise, is it not to put the Government completely in the control of these klans, and then what would be the situation? Let the past and late developments answer the

question. Life, liberty and property never was more insecure in Mexico, with her guerrillas, greasers, bandits and revolutionary bands, than it would be in these States, and the result would be revolution after revolution, until our entire system of government would be overthrown, and a monarchy or military despotism would rise upon its ruins. I know that a majority of our people are as good as any in the world, but I know of hundreds of men in different localities who, having expressed themselves against this organization, have been, by their friends, taken aside and admonished and advised to be more careful and guarded in their expressions. I know for opinions and utterances like these I have been, and will be again denounced as an enemy, who is trying to persecute, oppress and degrade the people of Alabama.

I submit to your serious consideration and just judgment, whether I, who have and am doing all in my power to protect the large mass of the people, who are peaceable, law-abiding and good, against the lawless bands of conspirators, who constitute the minority, but who infest and ruin the credit of our State and people, who are depriving citizens of their rights, who are constantly bringing distress, misery, suffering and ruin upon communities, misery and ruin upon families, destroying the peace and quiet of the State, and endangering the existence of the government itself, am not, instead of the enemy, the true friend of the people? And if those who are constantly and persistently, by appealing to passion and prejudice, trying to induce our people to make the cause of these bands of conspirators their cause, are not the real enemies of our people? And if they succeed, if they will not bring persecutions, prosecutions, disgrace and ruin upon our State and people? I beg you to think of this calmly and seriously, do not be guided by passion and prejudice, do not let us make any more mistakes.

In conclusion, I assure you I have no malice or vindictiveness to gratify, I have no feelings of ill will or malice against any human being in the State. I have, and shall continue, to the best of my ability, do my whole duty at all hazards, at any risk, and to the last extremity, at the same time to the utmost of my ability, avoid offending any person, or dealing harshly or oppressively with any. No man more than I would rejoice to see a state of things that would justify all prosecutions in the National Courts should cease, in safety to the rights and privileges of all citizens. Yea, more, that all who have been, or may be convicted, could safely be pardoned and return to their homes and

Pardon me for saying so much. Think and act seriously for yours and your country's interest, and to your judgment no man will submit with more pleasure than I will.

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